

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

1	TESLA, INC.,)	Case No.: 5:21-cv-00528
2)	
3	Plaintiff,)	[PROPOSED] ORDER GRANTING
4)	PLAINTIFF TESLA, INC.'S <i>EX PARTE</i>
5	v.)	MOTION FOR TEMPORARY
6)	RESTRAINING ORDER, ORDER TO
7	ALEX KHATILOV.)	SHOW CAUSE RE: PRELIMINARY
8)	INJUNCTION, AND EVIDENCE
9	Defendant.)	PRESERVATION ORDER
10)	
11)	Judge: _____
12)	Dept: _____
13)	Complaint Filed: January 22, 2021
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On January 21, 2021, Plaintiff Tesla, Inc. (“Tesla”) filed its *Ex Parte* Application for Temporary Restraining Order, Order to Show Cause re: Preliminary Injunction, and Evidence Preservation Order to this Court. The Court, having considered the argument of counsel and the papers submitted with this matter, and for good cause shown, HEREBY ORDERS that the Application is GRANTED, as more fully set forth herein. Defendant Alex Khatilov is hereby notified of his right to apply to the Court for modification or dissolution of the Order on two (2) days’ notice, or such shorter notice as the Court may allow.

TEMPORARY RESTRAINING ORDER

The Court has found that good cause exists for issuance of a Temporary Restraining Order, as Tesla has shown: (1) there is a substantial likelihood that Tesla will succeed on the merits of its claims against Defendant for misappropriation of trade secrets and breach of contract via unauthorized downloading while employed by Tesla; (2) absent the issuance of preliminary injunctive relief Tesla will suffer immediate and irreparable injury due to Defendant’s use or disclosure of Tesla’s trade secrets; (3) such injuries substantially outweigh any costs to Defendant that may result from granting this motion, which is intended to preserve the status quo; and (4) the requested relief supports the strong public interest in favor of protecting trade secrets.

Pending hearing on the Order to Show Cause, Defendant Alex Khatilov, as well as any persons in active concert or participation with him, is hereby RESTRAINED, ENJOINED AND ORDERED as follows:

1. Defendant is ENJOINED AND RESTRAINED from obtaining, retaining, using, transmitting, disseminating, or disclosing any of Tesla’s quality assurance files that Defendant downloaded, transferred, or otherwise obtained from Tesla’s servers during his employment with Tesla between December 28, 2020 and January 6, 2021, including any information contained within or deriving from those files (together, the “Tesla Trade Secrets”);

2. Defendant is REQUIRED to return to Tesla, within three (3) days of this Order, all Tesla equipment, tangible materials, and information that remain in Defendant’s possession, custody, or control, including but not limited to any emails, files, records, or other documents

1 that Defendant downloaded, removed, or otherwise obtained from Tesla, whether original or
2 duplicate;

3 3. Defendant is further REQUIRED to identify for Tesla, by hand delivery or
4 electronically within three (3) days of this Order, all other desktop and laptop computers, internal
5 and external hard drives, USB storage devices, flash drives, thumb drives, memory cards,
6 read/writable optical media (including CD-ROMs and DVD-ROMs), cloud storage accounts
7 (including Dropbox), email accounts, tablet devices (including iPads), smartphones, other
8 storage devices or accounts, or hard copy documents (collectively "Media"), belonging to or in
9 Defendant's possession, custody, or control, that contain any Tesla Trade Secrets (together, the
10 "Identified Media");

11 4. Defendant is further REQUIRED to produce to Tesla, by hand delivery or
12 electronically within three (3) days of this Order, the Identified Media, or allow Tesla's agents,
13 including any computer forensic experts, to forensically preserve and mirror/image said
14 Identified Media (which mirrored data shall be kept confidential by Tesla until such time as the
15 Court re-designates any portion thereof under a protective order);

16 5. Defendant is further REQUIRED to provide to Tesla, by hand delivery or
17 electronically within three (3) days of this Order, all logins, user IDs, passwords, and any other
18 processes necessary to obtain access to any operating system, database, server, software, file, or
19 other storage location for the Identified Media within Defendant's possession, custody, or
20 control; and

21 6. Defendant is further REQUIRED to identify for Tesla, by hand delivery or
22 electronically within three (3) days of this Order, any other persons, entities, or locations
23 (including any Media) not within Defendant's possession, custody, or control, to which
24 Defendant has transmitted, disseminated, disclosed, or stored any Tesla Trade Secrets.

25 The Temporary Restraining Order granted herein on _____, 2021 at _____
26 shall expire on _____, 2021 at _____.

ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION

Defendant is FURTHER ORDERED to appear on _____, 2021 at _____ in _____ to show cause why a preliminary injunction should not be granted and why Defendant, and any persons in active concert or participation with him, should not be ORDERED pending trial as follows:

1. ENJOINED AND RESTRAINED from obtaining, retaining, using, transmitting, disseminating, or disclosing any of Tesla's quality assurance files that Defendant downloaded, transferred, or otherwise obtained from Tesla's servers during his employment with Tesla between December 28, 2020 and January 6, 2021, including any information contained within or deriving from those files (together, the "Tesla Trade Secrets");

2. To the extent not already done, REQUIRED to return to Tesla, within three (3) days, all Tesla equipment, tangible materials, and information that remain in Defendant's possession, custody, or control, including but not limited to any emails, files, records, or other documents that Defendant downloaded, removed, or otherwise obtained from Tesla, whether original or duplicate;

3. To the extent not already done, REQUIRED to identify for Tesla, by hand delivery or electronically within three (3) days, all other desktop and laptop computers, internal and external hard drives, USB storage devices, flash drives, thumb drives, memory cards, read/writable optical media (including CD-ROMs and DVD-ROMs), cloud storage accounts (including Dropbox), email accounts, tablet devices (including iPads), smartphones, other storage devices or accounts, or hard copy documents (collectively "Media"), belonging to or in Defendant's possession, custody, or control, that contain any Tesla Trade Secrets (together, the "Identified Media");

4. To the extent not already done, REQUIRED to produce to Tesla, by hand delivery or electronically within three (3) days, the Identified Media, or allow Tesla's agents, including any computer forensic experts, to forensically preserve and mirror/image said Identified Media (which mirrored data shall be kept confidential by Tesla until such time as the Court re-designates any portion thereof under a protective order);

1 Tesla, as well as its respective employees, contractors, customers, competitors, vendors,
2 suppliers, or agents.

3
4 IT IS SO ORDERED.

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6 Dated: _____, 2021

7 Judge: